IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5243 of 2003

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PARMAR SANJAYKUMAR DHARAMSHIBHAI

Versus

DIRECTOR OF PRIMARY EDUCATION

Appearance:

MR CL SONI for Petitioner Nos. 1-3

Mr.P.D.Bhate, AGP, for Respondent No. 1.

MR HS MUNSHAW for Respondent No. 2

MR PK JANI for Respondent No. 3

MR HJ NANAVATI for Respondent No. 5

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 09/05/2003

ORAL JUDGEMENT

By filing this petition, the petitioners have, inter alia, prayed that the District Education Committee

of Surendranagar be directed to consider the applications of the petitioners for the purpose of employment as Vidhya Sahayak (Art Teacher Diploma) and that their applications should not be rejected on the ground that the Institution, from which they have obtained such Diploma, has not been recognized by National Council for Teacher Education, Bhopal ("NCTE", for short). It is submitted by Mr.Soni, learned Advocate for the petitioners, that petitioner No.1 has completed the course from respondent No.4-Smt.Rajal Vinaychandran Shah College of Fine Arts, Dholka. Mr.P.K. Jani has agreed to the proposition that the said Institution has already applied for recognition to NCTE. So far as petitioners 2 and 3 are concerned, they have completed the course from N.M. Shah Arts and Teachers' Training College, Wadhwan, respondent No.5. Mr. H.J. Nanavati, learned Advocate, who appears for the said Institution, submitted that the said Institution submitted an application on 12.6.1998 to the NCTE for recognition, for which he has relied upon some correspondence. Mr.Nanavati has also relied upon the certificate at page 31. He has placed on record letter addressed to the Institution by the NCTE. Acknowledgment is also placed on record. He submitted that, accordingly, they have already applied for recognition since long and the question is pending and inspection is awaited. Mr.Jani, after going through the said certificate, submitted that, prima facie, it appears that the Institution has applied. However, Mr.Jani submitted that he has not received any instruction one way or the other. Considering the aforesaid documentary evidence, in my view, the Institution has already applied to the NCTE which is clear from the letter of the Institution itself. Ultimately, if respondent No.3 is able to get contrary instructions to the effect that the respondent No.5 has never applied, it will be open for it to move this Court by way of appropriate review application and at that time, the Court will consider reviewing the matter so far as petitioners 2 and 3 are concerned.

On behalf of the petitioners, reference is made to the decision of this Court in Special Civil Application No.7405 of 2002 and other group of matters, decided on 27th November, 2002. In the aforesaid group of matters, a learned single Judge of this Court (Coram : R.M. Doshit, J.) has observed as under :-

> " ... ...
>
> In the present case, it is not disputed that except the above four institutions,

none of the institutions where petitioners have received education in Art Teacher's Diploma had applied for recognition by the Council within six months from the appointed day, as envisaged under proviso to sub-section (1) of Section 14 of the Act. It is admitted that the applications for recognition made by the above four institutions are still pending consideration by the Regional Committee of the Council and are not yet disposed of. Hence, the said four institutions are entitled to continue to offer the course in Art Teacher's Diploma though they have yet not been recognised by the Council. Such of the petitioners who have obtained qualification by pursuing the course offered by the said four institutions shall be held to be qualified for appointment under the concerned District Primary Education Committee. The rest of the petitioners who have obtained qualification by pursuing the course offered by the Institutions which did not apply for recognition by the Council within six months from the appointed day, as envisaged under section 14 (1) of the Act shall not be considered to be qualified for appointment under the concerned District Primary Education Committee.

Both the learned advocates, Mrs. Mehta & Mr.Patel have submitted that admission to the Art Teacher's college in the State of Gujarat is made by the State of Gujarat through a common admission procedure. The petitioners had been granted admission to the concerned institutions through such common admission procedure on recommendation made by the State Government. After successfully pursuing the course, the Diploma is conferred by the State Examination Board. Hence, the respondent-District Education Committees should be estopped from holding that the qualification obtained by the petitioners is not a valid qualification for appointment under the District Primary Education Committees. It appears that all the institutions in which the petitioners took training in Art Teacher's Diploma are

recognised by the State of Gujarat and the admission to the said institutions are made through the common admission procedure. However, it is a statutory requirement that all such institutions shall be recognised by the National Council for Teacher Education. Unless they are so recognized, the qualification obtained by pursuing the course offered by them cannot be held to be a valid qualification, as discussed hereinabove. It is well settled law that there cannot be estoppel against the Statute. Hence, the contention requires to be rejected.

It is admitted that all the petitioners, except the petitioners nos. 8, 25 and 30 in Special Civil Application No.7405 of 2002, have acquired the qualification of Art Teacher's Diploma by pursuing such course offered by one of the aforesaid four institutions. It is, therefore, held that all the petitioners except petitioners nos. 8, 25 & 30 in Special Civil Application No.7405 of 2002 possess a valid qualification in Art Teacher's Diploma and are entitled to be considered for appointment under the concerned District Primary Education Committee. The qualification obtained by the petitioners nos. 8, 25 & 30 in Special Civil Application No.7405 of 2002 is not a valid qualification and the said petitioners are not entitled to be considered for appointment under the concerned District Primary Education Committee.

It is also admitted that both the petitioners in Special Civil Application No.7756 of 2002 have acquired Art Teacher's Diploma by pursuing the course offered by one of the above referred four institutions. Hence, it is held that both these petitioners hold a valid qualification in Art Teacher's Diploma and are entitled to be considered for appointment under the concerned District Primary Education Committee.

In Special Civil Application

No.10946 of 2002, it is admitted that petitioners nos. 1 and 3 have received training in Art Teacher's Diploma in one of the above-referred four institutions. The institutions where the petitioner No.2 has received training had not applied for recognition within six months as envisaged under section 14(1) of the Act. In that view of the matter, the petitioners Nos. 1 & 3 can be said to have valid qualification for appointment under the concerned District Primary Education Committee. It is, therefore, declared that the petitioners nos. 1 and 3 are eligible for being considered for appointment under the concerned District Primary Education Committee. The petitioner no.2 does not possess a valid qualification and is not entitled for being considered for appointment under any District Education Committee.

All these three petitions are disposed of in the above terms. Notice issued in each of the petitions is discharged. There shall be no order as to costs. Registry shall maintain copy of this order in each of these petitions.

... ..."

Considering the fact that the case of the present petitioners is also identical to the one which is dealt with by this Court, the petitioners are required to be given the same benefit.

Mr.Bhate, learned AGP, who is appearing for the respondent No.1, submitted that the case of the present petitioners is squarely covered by the decision of this Court, referred to hereinabove.

Considering the facts and circumstances of the case, the petition is partly allowed. So far as the petitioners are concerned, they are held to be eligible for being considered for appointment under the concerned District Primary Education Committee. Rule is accordingly made absolute.

(P.B. Majmudar, J.)

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(apj)